



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2020-0186; FRL-10019-56-Region 4]

#### **Air Plan Approval; North Carolina; Revisions to Construction and Operation Permits**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on July 10, 2019. The SIP revision seeks to modify the State's construction and operation permitting regulations by making minor changes that do not significantly alter the meaning of the regulations. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [Insert date 30 days after date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0186. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Williams can also be reached via phone at (404) 562-9144 or via electronic mail at [williams.pearlene@epa.gov](mailto:williams.pearlene@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On July 10, 2019, the State of North Carolina submitted changes to the North Carolina SIP for EPA approval. EPA is finalizing changes to the following regulations under 15A North Carolina Administrative Code (NCAC) Subchapter 02Q,<sup>1</sup> Section .0300, *Construction and Operation Permits*; Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor Facilities*; Section .0316, *Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*.<sup>2</sup>

### **II. Analysis of North Carolina's SIP Revision**

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<sup>1</sup> In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as "Subchapter 2Q Air Quality Permits."

<sup>2</sup> The State submitted the SIP revision following the readoption of several air regulations, including .0301, .0303, .0304, .0305, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, and .0317, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B-21.3A.

The revision that is the subject of this final rulemaking makes changes to construction and operating permitting regulations under Subchapter 2Q of the North Carolina SIP. These changes revise the applicability of permit exemptions, permit application and processing procedures, and revise related definitions. Details regarding the background for these changes may be found in the proposed rulemaking that published October 19, 2020 (85 FR 66296). The comment period for this rulemaking closed on November 18, 2020. No adverse comments were received. EPA finds that the changes do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

EPA has determined that the changes to the regulations above provide clarity to the applicability of permit exemptions, permit application and processing procedures, and definitions. The changes are minor changes that do not significantly alter the meaning of the regulations. The changes to the SIP satisfy CAA section 110(l) and do not interfere with attainment and maintenance of the national ambient air quality standards or any other applicable requirement of the Act. Therefore, EPA is approving the changes to these regulations.

### **III. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following sections of 15A NCAC Subchapter 2Q with a state-effective date of April 1, 2018: Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor Facilities*; Section .0316,

*Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*. This finalization revises the applicability of permit exemptions, revises permit application and processing procedures, and amends definitions. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

#### **IV. Final Action**

EPA is approving North Carolina’s July 10, 2019, SIP revision, which contains changes to the following regulations under 15A NCAC Subchapter 02Q, Section .0300, *Construction and Operation Permits*: Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor Facilities*; Section .0316, *Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*. EPA has concluded that these changes are consistent with the CAA.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and

Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

#### **Signing Statement**

This document of the Environmental Protection Agency was signed on January 7, 2021, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the

undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

*Acting Regional Administrator,*

*Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart II – North Carolina**

2. In 52.1770 amend table 1 in paragraph (c) under Subchapter 02Q Air Quality Permits under Section .0300, Construction and Operation Permits by revising the entries for “Section .0301”, “Section .0303”, “Section .0304”, “Section .0305”, “Section .0307”, “Section .0308”, “Section .0309”, “Section .0310”, “Section .0311”, “Section .0312”, “Section .0313”, “Section .0314”, “Section .0315”, “Section .0316”, and “Section .0317” to read as follows:

#### **§ 52.1770 Identification of plan.**

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(c) \* \* \*

#### **(1) EPA APPROVED NORTH CAROLINA REGULATIONS**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*
<b>Subchapter 2Q Air Quality Permits</b>				
<b>Section .0300 Construction and Operating Permits</b>				
Section .0301	Applicability	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0303	Definitions	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	



Section .0304	Applications	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0305	Application Submittal Content	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Section .0307	Public Participation Procedures	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0308	Final Action on Permit Applications	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0309	Termination, Modification and Revocation of Permits	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0310	Permitting of Numerous Similar Facilities	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0311	Permitting of Facilities at Multiple Temporary Sites	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	

Section .0312	Application Processing Schedule	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0313	Expedited Application Processing Schedule	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0314	General Permitting for All Requirements	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0315	Synthetic Minor Facilities	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0316	Administrative Permit Amendments	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section .0317	Avoidance Conditions	4/1/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
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[FR Doc. 2021-04066 Filed: 2/26/2021 8:45 am; Publication Date: 3/1/2021]